

REMARKS

This patent application presently includes claims 1-6, all of which stand rejected. Claims 1 and 6 are amended to define the applicants' invention more clearly, and all rejections are respectfully traversed.

The applicants have requested that the office action of October 4, 2005 be withdrawn, owing to the examiner's failure to consider all of the prior art which is properly of record in this application. Specifically, the examiner has failed to make of record and consider EP-0-762-769, which has been disclosed herein in compliance with all of the applicable rules. A new office action has been requested, taking the new reference into consideration

In the office action of January 24, 2005, the Examiner noted that, although the IDS submitted February 28, 2002 was being considered, non-English EP-0-762-769 was not considered and was merely placed in the file. The explanation offered was that the IDS failed to comply with 37 CFR 1.98 (a) (2) "which requires a legible copy, in English, of each US and foreign patent...." The undersigned demonstrated the impropriety of this action in great detail in the amendment filed June 27, 2005 (the prior amendment). Yet, in the latest office action, the examiner does not even mention the prior refusal but, improperly, still refuses to consider EP-0-762-769. the latest office action is therefore incomplete and must be withdrawn for the examiner to consider this reference.

In the prior amendment, it was pointed out that, under 37 CFR 1.98, the Examiner is required to consider this reference, and the refusal to do so is *improper*. This reference must be made of record and considered.

Specifically, 37 CFR 1.98 (a) (2) only requires the submission of a legible *copy* of a foreign-language reference. An English translation of a foreign language reference is not required by that section. In fact, section (3) (ii) only requires:

(3)(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the

possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

There is no reason in the record to believe that such a translation was available and, in fact, it was not. Accordingly, the applicants were justified in submitting only a copy of the reference. Furthermore, the IDS was accompanied by an English version of a search report in a foreign counterpart application, demonstrating how that reference was applied by the foreign Examiner. So, the applicants met the “concise explanation” requirement of 37 CFR 1.98 (a)(3)(i).

In fact, the applicants have met every requirement of 37 CFR 1.98. The Examiner does not have the authority to impose additional requirements and was required to consider EP-0-762-769. The failure to do so was a blatant violation of the rules, and it is requested that this reference be considered and the new office action issued. Furthermore, since the Examiner’s refusal to consider that reference was improper, a further rejection could not be based upon that reference could not be made final, since that would foreclose the applicants from being able to respond.

Claims 1-6 were rejected as anticipated by Na et al. US Patent No. 6,336,731. This rejection is respectfully traversed. The subject matter of these claims is not taught by Na.

Na discloses a digital broadcast receiving/recording apparatus and method. Na’s disclosure is in the context of an IEEE 1394 serial bus, and in fact, no other transmission medium is even considered. In contrast, as should be clear from paragraphs [0012] and [0013] of the present patent application, the present patent application contemplates that different kinds of transmission media be used and that processing be performed in accordance with the kind of transmission medium over which information was received (see paragraph [0013], lines 3-4). Such processing is not taught or even suggested by Na.

Both independent claims (claims 1 and 6) provide that the signal be received via at least one of a plurality of different kinds of transmission media. Furthermore, processing is subsequently performed on a signal based upon a kind of transmission medium over which the

signal was received. This adaptive nature of the invention provides far broader application than was available with the prior art.

For example, claim 1 specifically provides that the receiving and demodulating means act in accordance with the kind of transmission medium over which a signal was received and that a control program in the process control means responds to at least one of the kinds of transmission media. It also provides that the processing means be responsive to control data received at its control input and that the command set of the interface means be defined jointly by the interface means and the main control means. Furthermore, the control data is generated by control program corresponding to different kinds of transmission media and producing control data depending upon a kind of transmission medium over which the signal is received. As none of these features is taught or suggested by Na.

Also, the controlling step of claim 6 produces control data having different possible forms corresponding to different kinds of transmission media and the form actually produced corresponds to a kind of transmission medium over which the signal was received. Accordingly, claim 6 distinguishes over Na for the same basic reasons as claim 1.

It is therefore believed that independent claims 1 and 6 are allowable over Na. Claims 2-5 depend from claim 1 and are allowable based upon their dependence from an allowable claim.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which might exist.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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